

**EDUCATION AND WORKFORCE DEVELOPMENT CABINET**  
**Kentucky Commission on Proprietary Education**  
**(Amendment)**

**791 KAR 1:035. Student protection fund.**

RELATES TO: KRS 165A.450

STATUTORY AUTHORITY: KRS 165A.340(6), 165A.400, 165A.450

NECESSITY, FUNCTION, AND CONFORMITY: KRS 165A.340(6) and 165A.400 authorize the Kentucky Commission on Proprietary Education to promulgate administrative regulations to administer the provisions of KRS Chapter 165A. KRS 165A.450 requires the commission to promulgate administrative regulations to ensure there is a renewable student protection fund, impose fees when the balance of the fund drops below the minimum, and establish other requirements related to the fund. This administrative regulation establishes standards for distribution of the funds.

Section 1. Definitions. (1) "Commission" means the Kentucky Commission on Proprietary Education.

(2) "Schools" means all schools, resident and nonresident, licensed by the commission.

(3) "Sponsor" means the original source of funds, whether student or entity, used to pay student charges for tuition, books, and fees.

(4) "Student enrolled" means a student currently enrolled and attending classes on a regular basis.

Section 2. Student Protection Fund Notice. Schools shall include on the student enrollment agreement, in 14-point type font:

(1) A statement notifying students of the existence of the student protection fund; and

(2) The process for filing a claim against the fund.

Section 3. Standards for Fund Distribution. (1) The commission shall manage the student protection fund ("the fund"). The fund shall be used in accordance with KRS 165A.450.

(2) Each fund distribution for restitution shall be made payable to the appropriate sponsor, as determined by the commission and shall be made upon the presentation of a signed Form for Claims Against the Student Protection Fund, Form PE-38, and supporting documentation, verifying the student's enrollment and regular attendance at the time of the school or program closure. The commission may require supporting documentation, such as canceled checks, loan documents, or other documentation that supports the student's entitlement to restitution.

(3) The amount to be refunded shall equal the actual amount of loans and cash that have been applied to tuition, books, and fees on behalf of the student's attendance at the school. If the claims resulting from a school closing exceed the balance in the fund, the commission shall provide for a pro rata distribution of the fund balance.

(4) If restitution is paid by the fund, the fund shall be subrogated to the amount of the restitution.

(5) In order to be considered, a claim for restitution from the student protection fund shall be made within one (1) year of the date of the school or program closure.

(6) An applicant for payment from the student protection fund who is dissatisfied with the decision of the commission may ask for reconsideration of the commission's determination regarding eligibility for restitution from the student protection fund.

(7) The request for reconsideration shall be submitted by the applicant to the commission within thirty (30) calendar days of the mailing date of the commission's decision.

(8) The request for reconsideration shall be signed by the student and explain the reasons in support of a different decision.

(9) Within forty-five (45) days of receipt of the request for reconsideration, the commission shall make a final determination and provide notice to the applicant.

(10) Students eligible for reimbursement will receive funds from the surety bond or other collateral before filing a claim against the Student Protection Fund.

Section 4. Incorporation by Reference. (1) "Form for Claims Against the Student Protection Fund", Form PE-38[~~January 2017, is incorporated by reference~~].

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Commission on Proprietary Education, 500 Mero Street [~~300 Sewer Boulevard~~], Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

MISTY N. EDWARDS, Executive Director

For DAVID W. FLOYD, Chair

APPROVED BY AGENCY: August 4, 2021

FILED WITH LRC: August 4, 2021 at 11:10 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on October 25, 2021, at 1:00 p.m. Eastern Time, at the Mayo-Underwood Building Hearing Room, 500 Mero Street, 1st Floor, Frankfort, KY. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through 11:59 p.m. on October 31, 2021. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person below.

CONTACT PERSON: Misty Edwards, Executive Director, Kentucky Commission on Proprietary Education, 500 Mero Street, 4th Floor, Frankfort, Kentucky 40601-1957, phone 502-564-4185, email [kcpe@ky.gov](mailto:kcpe@ky.gov).

## REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Misty Edward

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation (791 KAR 1:035) establishes standards for distribution of the student protection fund.

(b) The necessity of this administrative regulation: The commission is responsible for managing the student protection fund.

(c) How this administrative regulation conforms to the content of the authorizing statutes: The statute requires the commission promulgate administrative regulations regarding the student protection fund.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation ensures there is a renewable student

protection fund, imposes fees when the balance of the fund drops below the minimum, and establishes other requirements related to the fund. This administrative regulation establishes standards for distribution of the funds.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of: This amendment requires students eligible for reimbursement will receive funds from the surety bond or other collateral before filing a claim against the Student Protection Fund.

(a) How the amendment will change this existing administrative regulation: This amendment simply clarifies that students eligible for reimbursement will receive funds from the surety bond or other collateral before filing a claim against the Student Protection Fund.

(b) The necessity of the amendment to this administrative regulation: The amended regulation will ensure the student protection fund is better protected.

(c) How the amendment conforms to the content of the authorizing statutes: The statute establishes standards for students filing a claim against the student protection fund and other requirements related to the fund.

(d) How the amendment will assist in the effective administration of the statutes: The amendment simply clarifies the process for filing a claim and the order in which it must be filed.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: The Kentucky Commission on Proprietary Education, the 189 licensed proprietary schools, any proprietary school requiring licensure pursuant to KRS 165A, and any eligible claimant.

(4) Provide an analysis of how the entities identified in the previous question will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions each of the regulated entities have to take to comply with this regulation or amendment: Students eligible for reimbursement will receive funds from the surety bond or other collateral before filing a claim against the Student Protection Fund.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities: There is not a cost increase associated with the proposed amendment.

(c) As a result of compliance, what benefits will accrue to the entities: The amendment outlines the reimbursement process and ensures clarity is gained.

5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially: There will be no costs to the commission associated with the implementation of this amendment.

(b) On a continuing basis: There will be no costs to the commission associated with the implementation of this amendment.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The commission is funded entirely through fees paid by licensed schools.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: The amendment to this administrative regulation will not require an increase in fees.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: The amendment to this administrative regulation will not require an increase in fees.

(9) TIERING: Is tiering applied? Tiering is not applied because there is no change to the fee or application structure.

## FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Kentucky Commission on Proprietary Education and proprietary schools.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 165A, KRS 165A.340(6), 165A.400, 165A.450.

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect. If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? This amended administrative regulation will not generate any new revenue for the commission.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? This amended administrative regulation will not generate any new revenue for the commission.

(c) How much will it cost to administer this program for the first year? There will not be a cost increase associated with the amendments to this administrative regulation.

(d) How much will it cost to administer this program for subsequent years? Future costs will remain unchanged related to this amendment.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-): There is no known effect on current revenues.

Expenditures (+/-): There is no known effect on current expenditures.

Other Explanation: There is no fiscal impact associated with this amendment.